THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 16569 OF 2006

Between :

K. Jagannadha Rao
S/o Achuta Ramaiah,
Khamear Cross Road,
Kodad Post, Nalgonda District

… Petitioner

And :

The Andhra Pradesh State Financial Corporation,
Hyderabad and others

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 16569 OF 2006

ORAL ORDER :

The writ petition is premature. The 2nd respondent issued a notice dated 04.07.2006, to the petitioner which reads :

" This is bring to your personal notice that, in spite of issuance of several notices including under Sec. 52 A of Revenue recovery Act for discharging the liability to the Corporation, we have not received payments form your for closure of the loan account of M/s Vidyuth Services, Khammam village till date. As on 31/05/2006 the total outstandings in the loan account amounts to Rs.48,24,304.00. Further interest will be charged from 1/6/2006.

Account No.	Principal	Interest	Other expenses	Total
59 2101	3,08,288-00	45,06,640-00	9,376-00	48,24,304-00

Hence, our Corporation has decided to take further stringent recovery actions against you. The Steps proposed to be taken against you by the Corporation include any one or all of the following:

1. Corporation may **attach and sell your movable properties**

including household/domestic articles under Section 5 of APRR ACT.

2. Corporation may **attach and sell your immovable properties** under Section 5 of the APRR Act.

3. Corporation may **prosecute you** for fraudulent conveyance of property under Sec. 424 of IPC.

4. Corporation may cause **Arrest of the willful or fraudulent defaulter** under Section 48 of APRR Act.

5. Corporation may recover dues from persons from whom money is due to you (this includes the recovery of salary of the defaulter from the employer) under Sec. 52 B of APRR Act.

6. Corporation may issue public notice in News Papers along with your photograph informing public about your liability to the Corporation & proposed attachment of your assets and cautioning public not to enter into any transaction with your/your family members.

7. Corporation may inform to local Revenue, Police & Bank Authorities about your conduct with public institutions.
8. Corporation may file petition under 31(1) aa of State Financial Corporation's Act for attachment and sale of your immovable properties.

We will take firmly any or / all of the above recovery actions against you after (1) days from the date of this notice which will be drastically inconvenient and embarrassing to you.

However, our Corporation is coming forward to settle this type of loan accounts under One Time Settlement Scheme (OTS) to relieve all or any one of the promoters/guarantors of the borrower concern. Hence, we advise you to avail the opportunity to settle the loan account under OTS.

The proposed action will be stopped only if your submit concrete proposal with down payment for One Time Settlement within (10) days from the date of this letter.

This may be treated as "Most Urgent". "

The petitioner contends that the proposed action by the respondents under the Revenue Recovery Act ('the Act') is barred by limitation. This is a question of fact and not a pure question of law. In any event no proceedings under the Act

have yet been initiated. As and when proceedings are initiated the petitioner has a concrete grievance which requires to be redressed. As on date the petitioner's apprehension based on the impugned notice cannot be countenanced for adjudication. The petitioner is at liberty to respond to the notice dated 4.7.2006 and intimate to the 2nd respondent his version of the factual and legal aspects. The petitioner is also at liberty to represent to the respondent that the outstanding loan cannot be recovered by the 2nd respondent under the provisions of the Act, as it is barred by limitation. It is for the respondent to thereupon take further action according to its discretion.

As and when action under the Act is initiated that would the appropriate time for the petitioner to seek remedies before the appropriate forum.

The writ petition is dismissed as above. No order as to costs.

Dt: 28.08.2006 ----------

Pvsn Justice G. Raghuram